

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Shelia Breckenridge, :
Plaintiff, :
v. : Case No. 2:06-cv-0358
P.E. Miller, Inc., et al., : JUDGE GRAHAM
Defendants. :

ORDER

This case has a somewhat tortured procedural history. As explained more fully below, that history has made it difficult for the Court (and the parties) to progress toward the resolution of the merits of Ms. Breckenridge's claims. The purpose of this order is to create essentially a clean slate with respect to procedural issues and to set the stage for an orderly disposition of the case.

Ms. Breckinridge filed the complaint in this case (she had previously filed a complaint about the same events, and that case was then dismissed without prejudice) on May 15, 2006, claiming that she had been terminated from her job as a licensed practical nurse in violation of Title VII's prohibition against racial discrimination in the work place. Although counsel's signature appears on the complaint, for some reason that attorney filed a separate notice of appearance almost a year later. For various reasons, some of which may be attributable to Ms. Breckenridge and some of which may not, it took almost an entire year to have the complaint served on the defendants. Finally, an initial pretrial conference was held on April 11, 2007, and a case schedule was established.

Almost immediately after that occurred, and after Ms. Breckenridge was deposed, difficulties arose between Ms.

Breckenridge and her attorney. On August 1, 2007, he moved for leave to withdraw. Ms. Breckenridge originally opposed his motion, and the matter was briefed. While the matter was pending, defendants moved for summary judgment.

In response, Ms. Breckenridge moved to stay the case, and her attorney moved for an extension of time to respond to the summary judgment motion. The Court then conducted a status conference at which it became apparent that the relationship between Ms. Breckenridge and her attorney had deteriorated to the point where he should be permitted to withdraw. Ms. Breckenridge consented to that withdrawal but asked the Court to appoint an attorney to replace him.

The Court cannot appoint attorneys in cases such as these, but it can request that an attorney consider taking the case. It has done so, through a *pro bono* project developed between the Court and the former Franklin County Trial Lawyers' Association. However, to date no attorney has either contacted the Court about this case or entered an appearance on Ms. Breckenridge's behalf.

It is time to get on with this case. The Court has exhausted its ability to assist Ms. Breckenridge with obtaining new counsel. While understanding that she may not wish to litigate the case herself, the case cannot simply be placed on indefinite hold because she is without counsel.

Taking this background into account, the Court makes the following order. At this point, all pending motions, including docket numbers 32, 35, 38, 41 and 43, are denied without prejudice. Ms. Breckenridge shall either cause an attorney to enter an appearance on her behalf, or be prepared to litigate this case herself, within thirty days. The Magistrate Judge shall notice the case for another Rule 16 conference not later than sixty days from the date of this order. At that conference, either Ms. Breckenridge, or, if she has an attorney, her attorney shall be

prepared to agree upon a new case schedule which shall include dates for the refiling of defendants' summary judgment motion and for the completion of any discovery necessary for Ms. Breckenridge to respond to that motion. If she elects not to continue with the case herself or fails to appear at the conference, the case will be subject to dismissal for failure to prosecute.

IT IS SO ORDERED.

S/ James L. Graham

JAMES L. GRAHAM

United States District Judge

Date: September 22, 2008